

☐ DAY CARE EVALUATOR MANUAL☒ RESIDENTIAL CARE EVALUATOR MANUAL

TRANSMITTAL SHEET

Number

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Distribution All Day Care Evaluator Manual Holders
All Residential Care Evaluator Manual HoldersDate Issued
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Subject

APX RCFE: 1992 Chaptered Legislation and Implementation

(Appendix Residential Care Facilities for the Elderly)

Approved


WILLIAM C. JORDAN, Chief

Type of Change

☐ Temporary ☒ Permanent

REASON FOR CHANGE

This transmits summaries of legislation chaptered in 1992 affecting Residential Care Facilities for the Elderly. The summaries are divided into three sections:

- I. Immediate Action Required - Interim instructions are provided and will be incorporated into the appropriate Evaluator Manual section as soon as possible.
- II. No Action Pending Regulations or further instructions.
- III. Information Only - No Action Required

Additionally, an Index is attached to assist staff in locating specific bills. Statutes referenced in this document become operative on January 1, 1993 unless otherwise indicated.

☐ File this sheet and attachments in your Evaluator Manual in the front under "Temporary Changes" and annotate the following sections of regulations in the Evaluator Manual to reference back to this notice, or, file only this sheet under "Temporary Changes" and insert each attachment next to the corresponding EM page. (Do not remove existing EM pages.)

☐ Remove

☒ Insert the attached pages into Appendix A. Do not remove similar documents from previous years.

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SUMMARY OF 1992 CHAPTERED LEGISLATION

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

INDEX

<u>BILL NUMBER</u>	<u>SUBJECT</u>	<u>Page</u>	<u>Code</u>
AB 396	Licensing fees	2	I
AB 2647	Perpetual licenses: removal of all reference to license terms/renewals	2	I
	Immediate barring of an employee from a facility	2	I
	Appeal hearing rules and procedures	8	III
AB 2664	Terminally ill residents in RCFEs--hospice care	7	II
AB 2866	Fire safety standards	8	III
AB 3151	Sale of facility	5	I
AB 3773	Fingerprinting of employees other than those employed in licensed facilities	9	III
SB 1311	Application for an additional RCFE license	5	I
SB 1562	Staff training	9	III
SB 1670	Repeal of the prohibition against transfer-dependent RCFE residents	6	I
	RCFE staff training	7	II
	Time requirement for submission of fingerprints to DOJ	10	III

I. IMMEDIATE ACTION REQUIRED

AB 396 (No author), Chapter 709, Statutes of 1992

Affects: RCFEs

Also: CDCs, FDCHs and CCFs except FFHs, CFFHs and RCF-CIs

Section 1569.185 - increases licensing fees for facility categories previously paying fees and establishes a process whereby fees are required annually by the anniversary of the effective date of the license. Additionally, failure to pay fees is grounds for denial of an application or forfeiture of a license. This was an urgency measure with an effective date of September 16, 1992.

Implementation

Detailed information on implementation of this legislation was sent to each regional manager and district office manager on September 22, 1992, October 1, 1992, and December 10, 1992. Please refer to those documents for instructions. Notification has been sent to all providers.

AB 2647 (Bates), Chapter 1315, Statutes of 1992

Affects: RCFEs

Also: CCFs, RCF-CIs, DCCs and FDCHs

Sections 1569.15, 1569.19, 1569.205 and 1569.60 - amend or repeal all references to license renewal including license term limits, renewal applications and fees, renewal visits, and renewal license denial procedures.

Sections 1569.58(b)(c) - require that the Department provide notice directly to an employee or prospective employee when the individual has been immediately excluded from a facility by order of the Department. AB 2647 does not change the 15 calendar day period following the exclusion order which is provided to the employee or prospective employee for purposes of requesting a fair hearing. However, this legislation also requires that the Department serve an accusation upon the excluded employee or prospective employee within 30 calendar days after the Department's receipt of a hearing request from the employee or prospective employee. AB 2647 also sets allowable time limits for the scheduling of name-clearing hearings and the rendering of a hearing decision.

Section 1569.58(d) - requires that an employee or prospective employee who requests a fair hearing in response to exclusion from a facility provide his or her current mailing address as part of the hearing request. Until the hearing process is completed, the employee is further required to notify the

Department in writing of any subsequent change in mailing address.

Implementation

Sections 1569.15, 1569.19, 1569.205 and 1569.60 - Effective January 1, 1993, Community Care facility licenses are no longer subject to renewal nor will the face of licenses issued after that date include an expiration date. The License (LIC 203 and LIC 203A) are in the process of being revised. Until the revision has been completed and disseminated, the "Expiration date" field reflected on the computer-generated LIC 203A will automatically be crossed out as shown on the attachment. When using the LIC 203 (the manual document not generated by LIS), it will be necessary to type over the "Expiration date" field with "xxxxxx".

Even though facility licenses are no longer subject to renewal, a visit is still made on an annual basis except in Family Day Care Homes. These visits will in the future be referred to as an "annual visit," not a renewal visit. Prior to the expiration of the current license, the Licensing Program Analyst (LPA) is to conduct the visit (previously referred to as the renewal visit). This information is to be put on the LIS in the "visit completed" option using option #7 "renewal visit". This will be the last entry for a "renewal visit" and a perpetual license will be generated without an expiration date.

The next input is the effective date of the license. The effective date is to be either the date that the new license is issued or the day after the expiration of the current license, unless special arrangements have been previously made with the LIS unit. Once the effective date of a license has been entered, it cannot be modified by the district office. However if the input is in error, contact the LIS help desk for correction.

The "expiration date" field is no longer available for input.

The following modifications are also being made to procedures, systems, and/or forms:

The Facility Renewal Visit Report (LIS 845) and the Child Care Facilities Annual Visit (LIS 855) will be replaced by the new "Annual Fee/Visit Report" (LIS), which will contain many of the same data elements as the old listings. This report is generated approximately 150 days prior to the annual visit date. This report will not apply to Family Day Care.

A new Family Day Care Visit/Fee Report is being prepared. This listing will display the same data elements as the LIS 855. There will be categories of "12 month fee report, 24 month fee report and 36 month fee/visit report". This report is set up in this manner since Family Day Care Homes will continue to be

visited every 36 months until there are adequate funds to start annual visits as provided in AB 3087. At that time, the district offices will be notified to begin annual visits.

The LIS 555 and LIS 595 will be combined and given a new LIS number. The new report will be entitled "Annual Notice of Facility Roster" and will include all facility types. This roster will be generated approximately 150 days prior to the annual visit date.

The Renewal Fee Notice (LIC 201F), which is being changed to the "Annual License Fee Notice," is now generated off of the effective date of the license instead of the expiration date. Until this form revision is completed, information that is no longer accurate nor pertinent is being automatically crossed out by the computer.

The Work Volume Report (LIS 993) will no longer indicate renewal visits. Visits previously referred to as renewal visits are to be reported on LIS as annual visits. This category, however, will appear until the last license with an expiration date has been reissued.

LIS generated listings are now processed off of the effective date of the license instead of the expiration date.

Since licenses are no longer subject to renewal, the Department can no longer deny renewals after January 1, 1993. Any denial actions which were taken prior to January 1, 1993 are subject to the administrative action procedure that was in place at that time. In the future, all such actions must be handled as a revocation of the license.

Sections 1569.58(b)(c)(d) - given the specific and short period provided for service of the accusation under AB 2647, district offices must, effective immediately, forward the statement of facts and associated documentation in support of exclusion of the employee or prospective employee to the appropriate regional office within five (5) working days of the Department's receipt of the employee's hearing request. Regional offices must then expeditiously forward the statement of facts to the DSS Legal Division for preparation and service of the accusation. Under separate cover from this summary, COB will soon release detailed instructions for field staff which reflect the new name-clearing requirements created by AB 2647. These instructions will include an amended form letter for use by district offices to provide the required notice to affected employees and prospective employees of immediate barring from a facility.

AB 3151 (Harvey), Chapter 873, Statutes of 1992

Affects: RCFEs

Also: DCCs, CCFs, and RCF-CIs

Section 1569.191(b)(1) - was amended to require the licensee (seller) of an RCFE to notify the prospective buyer, in writing, of the necessity to obtain a license in order to continue operating the property as an RCFE. In addition, a copy of this written notice must be forwarded to CCLD.

Implementation

Until Title 22, California Code of Regulations, Section 87114(c) is amended, use for authority the language in Health and Safety (H & S) Code Section 1569.191(b) and the existing language in Section 87114(c) of the RCFE regulations.

SB 1311 (B. Greene), Chapter 570, Statutes of 1992

Affects: RCFEs

Also: CCFs and RCF-CIs

Section 1569.150 - requires the department to review and make a final determination within 60 days after submission of a complete RCFE license application if the applicant has a current, valid license to operate an RCFE at another site.

SB 1311 requires that applicants for an RCFE license who possess a current valid license for an RCFE at another site indicate the facility name and license number for their current license on the application in order to allow expedited application processing.

Requires the Department to request a fire safety clearance within five (5) days of receipt of a completed application for an RCFE license from applicants who possess a current, valid RCFE license at another site.

If a license or a provisional license is not issued within 60 days of receipt of a completed application, the Department is required to issue a notice to the licensee. Such notice shall describe the reason(s) that a license or provisional license was not issued including the absence of any required documents. If a life safety risk is identified, the risk shall be clearly explained. If lack of a fire clearance is identified, the applicant shall be provided with the name and telephone number of the fire authority representative who was sent the request and the date the request was sent. If the absence of a fingerprint clearance is identified, the Department is required to provide the applicant with the names of the individuals who have not been cleared.

The Department is required to issue a provisional license within

five (5) days of obtaining documentation indicating that the reason(s) for not issuing a license, as identified in the notice, has been corrected.

Implementation

District office staff shall review RCFE applications and identify those from applicants who possess a current RCFE license at another site. Applications that are so identified shall be given priority. Such applications shall be reviewed and, if complete (i.e., parts A & B) and payment of the appropriate fee has been made, a fire clearance request shall be sent within five days of receipt of the application.

Field staff shall continue to use current procedures to make a final determination within 60 days. If a license or provisional license is not granted, check the appropriate boxes and mail the Notification of Incomplete Application form (LIC 184) to notify the licensee. If a life safety risk is identified, check the "other" box on the LIC 184, indicate that clearance has not been received, and write a description of the risk. If a lack of fingerprint clearance is indicated, write the name(s) of those without clearance on the LIC 184. If the district office has not received the fire clearance, check the "other" box on the LIC 184 and attach a copy of the fire clearance request.

If all requirements indicated on the notice have been corrected and supporting documentation has been received, issue a license or a provisional license as appropriate within five (5) days of receipt of verification.

COB is in the process of revising the LIC 184 to provide space for the names of persons without fingerprint clearance, and to add space for fire clearance information.

SB 1670 (Mello), Chapter 1169, Statutes of 1992

Affects: RCFEs

Section 1569.72 - removes all references to transfer dependency in this section by repealing language that has prohibited the residence of transfer-dependent persons in RCFEs. This change is effective until January 1, 1994 at which time the language prohibiting transfer-dependent persons again becomes effective. The repeal of the transfer dependency provisions is designed to provide additional opportunities for review of the issue.

Implementation

Follow the instructions provided in the memorandum dated September 2, 1992 addressed to the Regional Managers. That is, do not enforce CCR Section 87582(d)(2) regarding the prohibition against transfer-dependent residents in RCFEs. COB will ensure

that Section 87582(d)(2) is repealed. EM transmittal #92RCFE-06 ("blues") has been released to implement the information contained in the September 2, 1992 memorandum. In addition, this EM transmittal contains information pertaining to Section 87582(d)(1) which continues to prohibit bedridden persons from residing in RCFEs.

II. NO ACTION PENDING REGULATIONS OR FURTHER INSTRUCTIONS

AB 2664 (Bates), Chapter 943, Statutes of 1992

Affects: RCFEs

Section 1569.73 - provides that a terminally ill person may reside in an RCFE if several specified conditions are met: (1) the licensee has agreed to retain the resident and seek an exception from CCLD, (2) the terminally ill resident has requested that CCLD allow residence in the facility and the resident has the capacity to decide whether to receive hospice services in the facility, (3) the resident has obtained the services of a licensed hospice provider, (4) CCLD has decided that the facility can adequately meet the care and supervision needs of the terminally ill resident, (5) the licensee is in substantial compliance with CCLD laws and regulations, (6) the resident has resided at the facility in question for at least the previous six months, (7) the hospice provider has agreed to design and provide care, services, and necessary medical intervention related to the terminal illness in supplementation of care and supervision provided by the licensee, (8) an agreement has been executed between the licensee and hospice provider regarding the care plan for the resident, (9) the care plan contains elements specified in the law, and (10) any roommate of the terminally ill resident agrees to the presence of hospice caregivers. The law also provides that the licensee may initiate relocation of the terminally ill resident if the health and safety of any resident in the facility is placed in danger due to the presence of the terminally ill resident.

Implementation

No action until notified. COB will develop new and amended level of care regulations to clarify and implement the changes regarding terminally ill residents.

SB 1670 (Mello), Chapter 1169, Statutes of 1992

Affects: RCFEs

Section 1569.625 - requires that RCFE staff providing assistance to residents in activities of daily living receive 10 hours of

training in specified areas within the first four weeks of employment, and four hours annually thereafter. The training may be administered on the job, in a classroom setting, or using a combination of such instructional approaches. CCLD is required to consult with provider organizations in developing subject matter for the required training, which must include instruction in physical limitations and needs of the elderly, importance and techniques of personal care services, residents' rights, policies and procedures regarding medications, and psychosocial needs of the elderly.

Implementation

No action until notified. COB will consult with provider associations and possibly others and will develop the necessary regulations.

III. INFORMATION ONLY - NO ACTION REQUIRED

AB 2647 (Bates), Chapter 1315, Statutes of 1992

Affects: RCFEs

Also: CCFs, RCF-CIs, DCCs and FDCHs

Section 1569.51 - amends various legal rules regarding hearing proceedings for license suspension, revocation, or denial, and establishes conditions under which an Administrative Law Judge may allow the continuance of an appeal hearing.

Implementation

Information only. The Department's Legal Division will monitor adherence to the procedural requirements concerning hearings.

AB 2866 (Floyd), Chapter 420, Statutes of 1992

Affects: RCFEs

Also: CCFs

Section 13133 - mandates that the State Fire Marshal develop separate and distinct occupancy classifications and specific fire safety standards for each type of community care facility and residential care facility for the elderly licensed by the Department. Additionally, the law mandates that such standards and other related regulations be applied consistently by the State Fire Marshal to all affected facilities on a statewide basis. The law precludes any city, county, or city and county from enforcing any standards which would be deemed inconsistent with the separate and distinct occupancy classifications and specific fire safety standards adopted by the State Fire Marshal

Office. However, the law allows a city, county, or city and county to adopt more stringent fire safety regulations and other related standards regarding roof coverings for residential care facilities for the elderly if it has been determined that such standards are reasonably necessary due to the unique climate, geological conditions, or topographical conditions of a given area.

Implementation

Information only. Field staff will be notified as new fire safety standards are developed.

AB 3773 (Conroy), Chapter 1227, Statutes of 1992

This legislation has no direct effect on the licensing program. However, it amends the Penal Code to make specific the circumstances under which the Department of Justice may release criminal record information to employers. Licensees do not receive clearance information under this statute, but rather under H & S Code provisions.

AB 3773 also makes it a misdemeanor to require a potential employee to obtain his or her criminal record clearance and provide it to the employer who may not have the authority to receive such information.

Implementation

Information only, no action needed.

SB 1562 (Watson), Chapter 1319, Statutes of 1992

Affects: RCFEs

Also: CCFs, DCCs and FDCHs

Section 1569.64 - requires the Department to provide new staff with comprehensive training within the first six months of employment. At a minimum, the training shall include the following core areas: administrative action processes, client populations, conducting facility visits, cultural awareness, documentation skills, facility operations, human relations skills, interviewing techniques, investigation processes, and regulation administration.

Implementation

Information only, no action required. A training program for licensing staff is already in place.

SB 1670 (Mello), Chapter 1169, Statutes of 1992

Affects: RCFEs

Section 1569.17(c) - requires that the licensee submit fingerprints to the Department of Justice for persons required to be fingerprinted within 20 days following employment, residence, or initial presence in the facility. Prior to this bill the statute required that fingerprints be submitted within four days. The law and CCLD regulations now conform on the allotted period of time.

Implementation

Information only. No action necessary.